

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

BRIAN SCHMIDT,

Plaintiff,

v.

5:09-CV-1094 NPM/GHL

MICHAEL ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

OLINSKY & SHURTLIFF
Counsel for Plaintiff
300 South State Street, Suite 520
Syracuse, NY 13202-2060

JAYA SHURTLIFF, ESQ.

SOCIAL SECURITY ADMINISTRATION
Office of Regional General Counsel
Counsel for Defendant
26 Federal Plaza - Room 3904
New York, NY 10278

SIXTINA FERNANDEZ, ESQ.

Neal P. McCurn, Senior District Judge

Order

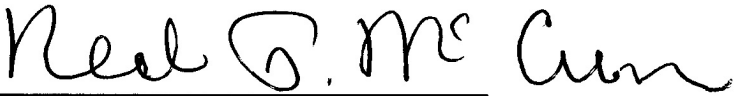
Plaintiff Brian Schmidt brings this action pursuant to the Social Security Act, 42 U.S.C. §§ 405(g), 1383(c)(3), seeking review of a final decision of the defendant Commissioner of Social Security (“the Commissioner”), denying his application for disability insurance benefits (“DIB”) and supplemental security income (“SSI”). By Report-Recommendation dated August 13, 2010, the

Honorable George H. Lowe, United States Magistrate Judge, finds that the Commissioner's decision contains legal error and is not supported by substantial evidence, and therefore recommends that the Commissioner's decision denying DIB and SSI be vacated and remanded for further proceedings in accordance with his recommendation. Neither party having objected thereto, and this court having carefully reviewed same for clear error, this court adopts the Report-Recommendation in its entirety. See 28 U.S.C. § 636(b)(1).

Accordingly, for the reasons set forth above, the recommended ruling (Doc. No. 11) is hereby APPROVED and ADOPTED. This case is REMANDED to the Commissioner, as set forth in the recommended ruling, for further proceedings consistent with the recommended ruling of the magistrate judge.

SO ORDERED.

September 22, 2010
Syracuse, New York



Neal P. McCurn
Senior U.S. District Judge